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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/457,796	12/09/1999	GREGORY MATHUS	5044	8079

7590 10/24/2003

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EXAMINER

CROSS, LATOYA I

ART UNIT	PAPER NUMBER
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1743

DATE MAILED: 10/24/2003

16

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/457,796

Applicant(s)

MATHUS ET AL.

Examiner

LaToya I. Cross

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 August 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2-5 and 10-28 is/are pending in the application.
- 4a) Of the above claim(s) 16-25 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 2-5, 10 and 26-28 is/are rejected.
- 7) ☒ Claim(s) 11-15 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

This Office Action is in response to Applicants' Appeal Brief filed on August 7, 2003 and entered as Paper No. 15. After further consideration, the Examiner has withdrawn the rejections from the previous Office and presented new grounds of rejection, set forth below. Claims 2-5, and 10-28 are pending. Claims 16-25 are withdrawn from consideration as being directed to non-elected subject matter.

Withdrawal of Rejections from Previous Office Action

- The rejection of claims 2-5 and 26-28 over Laska in view of Corsi et al is withdrawn in view of Applicants' argument that Corsi et al fail to teach the unimpeded removal of the cover from the base. Likewise, the rejection of claim 10 over Laska in view of Corsi et al and Berry, Jr. is also withdrawn.

Claim Rejections - 35 USC § 103

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
2. Claims 2-5 and 26-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Laska in view of US Patent 4,854,475 to Riihimaki et al.

Laska discloses a storage assembly for holding multiple test tubes (56, 59) of varying heights and diameters. The assembly comprises a base and a transparent cover portion. The base comprises a plurality of openings (25), wherein a plurality of projecting support pads (30A-D, 60A-D) are symmetrically positioned within the openings. Moreover, the pads comprise a surface (31A-D, 61A-D) which engages the test tubes. See figures 1A-6A.

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Laska fails to disclose the use of a rotatable and removable cover comprising a notch, wherein the notch includes a trunnion travel surface and a ledge surface, or a base comprising a trunnion.

Riihimaki et al teach a cassette for storage of instruments. The cassette comprises a top cover (32) and a lower tray portion (14). The lower tray portion is equipped with a mechanism (48) for closing and opening the cover of the cassette. The mechanism includes J-shaped members (50, 52) which aid in releasably joining the cover to the tray. The J-shaped members form trunnion travel surfaces. As shown in figures 6 and 7, Riihimaki et al teach that the lower J-shaped member (50) engages the J-shaped member (52) to allow the top cover to be rotatable between an open position and a closed position. See col. 2, lines 32-37. Further, Riihimaki et al teach that the cover may be removed/separated completely from the tray member. Upon rotating the hook members/notches (54, 60) so as to unengaged the members, the cover can be separated from the base. The hook members are not snap fitted together and require only rotational movement about one another, so as to provide unimpeded separation of the cover from the base.

It would have been obvious to one of ordinary skill in the art to modify the storage assembly of Laska to include an opening/closing mechanism as described in Riihimaki et al which provides easy means to open and close the assembly so as to allow easy access to the instruments when opened and better protection of the instruments when closed.

3. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Laska in view of Riihimaki et al as applied to claim 26 above, and further in view of Berry, Jr.

With respect to claim 10, neither Laska nor Riihimaki et al teach slide latches to secure

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the cover to the base.

Berry, Jr. teaches two slide latch mechanisms (49) designed for securing the lid (22) to the tray (21). The base comprises a first and second base sidewalls (25, 26) each having a slide surface having a lengthwise groove (31) which mates with a lengthwise tongue (58) of the slide hatch. See figures 1-3 and 6-7. Note: lengthwise has been interpreted to mean along the direction of length of the respective element, wherein these elements not necessarily the same direction.

It would have been obvious to one of ordinary skill in the art at the time of the claimed invention to have included in the system of Laska and Riihimaki et al, the securing mechanism of Berry, Jr. in order to provide a quiet smooth and convenient latch design (col. 2, lines 30-34).

Allowable Subject Matter

4. Claims 11-15 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. See previous Office Action for reasons for indicating allowable subject matter.

Response to Arguments

5. Applicant's arguments with respect to claims 2-5 and 26-28 have been considered but are moot in view of the new ground(s) of rejection.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to LaToya I. Cross whose telephone number is 703-305-7360.

The examiner can normally be reached on Monday-Friday 8:30 a.m. - 5:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jill A. Warden can be reached on 703-308-4037. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

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August 20, 2003


Jill Warden
Supervisory Patent Examiner
Technology Center 1700